IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Tr.P(C).No. 103 of 2007()

OP(HMA).445/2005 of FAMILY COURT, KOTTARAKKARA
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PETITIONER

VALSALA CHANDRAN,
SREERANGAM, MARIATHURUTHU, AYMANAM, KOTTAYAM NOW RESIDING AT CHANDRABHAVANAM, KURUPP'S LAND, SASTHAMANGALAM, THIRUVANNATHAPURAM.

BY ADV. SRI.K.GOPALAKRISHNA KURUP

RESPONDENT:

CHANDRASEKHARA PILLAI,
P.O.BOX 50891, DUBAI, U.A.E.

BY ADV. SRI.T.KRISHNAN UNNI

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A. NO. 1129/2007 IN Tr.P(C).No. 103 of 2007()

DISMISSED

20.08.2007 SD/- M.N. KRISHNAN, JUDGE.

M.N. KRISHNAN , J

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Tr. P.(C) NO. 103 OF 2007

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Dated this the 20th day of August, 2007.

ORDER

This transfer petition is filed by the wife in O.P. No. 453/2002 pending before the Family Court, Kottarakkara to transfer it to Family Court, Kottayam at Ettumanoor where O.P. No. 652/2006 and M.C. No.44/2007 is pending. The unfortunate couple had crossed the age of 50 and in the evening of their life they wanted to get themselves separated. So many connected proceedings are pending before the courts. It is submitted that the husband is an employee in the gulf countries and is having substantial income. The wife has filed O.P. No. 652/2006 for money due to her and M.C. No. 44/2007 for maintenance. The main case is the petition for divorce which is pending before the Family Court at Kollam that was transferred from the said court when the Family Court at Kottarakkara was established. The main grievance is that the petitioner has to travel about 100 kms. from her place to Kottarakkara and that will cause

inconvenience to her. The Supreme Court in the decision reported in **Anindita Das v. Srijit Das** (2006 (9) SCC 1967) has held that transfer petitions filed by the wives also has to be considered on the merits of the case. The learned counsel for the respondent submitted that while the matter was pending before the Family Court at Ettumanoor there was a compromise entered into between the parties and subsequently the wife resiled from the same and she has moved the application for transfer the case to the Family Court at Ettumanoor. It is clear from the averment in the petition itself that in a case under the Domestic Violence Act she had obtained residence in a building belonging to the husband at Trivandrum and it is averred that she is now residing at Trivandrum. The picture which she wanted to project is her inconvenience to travel from Ettumanoor to Kottarakkara falls to the ground when it is seen from the petition filed by herself that she is residing at Trivandrum. The issues involved are not common and they are different and I am informed by the counsel for the respondent that evidence has been adduced relating to the return of money and it is posted for the respondent's

evidence. Maintenance case is independent of these matters and it can be decided by the court so the projected inconvenience made by the transfer petitioner does not appear to be genuine, bonafide or truthful especially in the back drop of attempted settlement before the very same court and resiling from the same. Therefore, I find no bonafides in the petition for transfer on the facts of the case and therefore it is dismissed.

M.N. KRISHNAN, JUDGE.

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